

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

XAVIER GARZA and VALENTIN GARZA
Plaintiffs

v.

OGAYAR REYNALDO and
ADT TRANSPORT INC. A/K/A ADT
TRANSPORT CORP
Defendants

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Civil Cause No. 5:20-cv-947

DEFENDANT OGAYAR REYNALDO'S NOTICE OF REMOVAL

To the Honorable United States District Court Judge:

Now comes Defendant Ogayar Reynaldo, and pursuant to 28 U.S.C. §§ 1441 and 1446, files this Notice of Removal to the United States District Court for the Western District of Texas, San Antonio Division and respectfully shows the Court the following:

I. PROCEDURAL BACKGROUND

1. On June 18, 2020, Plaintiff filed "Plaintiffs' Original and Written Discovery Requests" styled *Xavier Garza and Valentin Garza v. Ogayar Reynaldo and ADT Transport Inc. a/k/a ADT Transport Corp*, in the 150th Judicial District Court in Bexar County, Texas, originally pending as Cause No. 2020CI11079.

2. Plaintiff carried out service on Defendant Reynaldo by serving the Chairman of the Texas Transportation Commission on July 13, 2020, such suit was forwarded to Defendant Reynaldo on July 16, 2020. Defendant ADT Transport Inc. a/k/a ADT Transport Corp has not yet been served as of the date of this filing.

3. Plaintiffs Garza allege that the accident at issue occurred as a direct and proximate result of Defendant's negligence, negligence per se, and gross negligence, resulting in personal injuries.

4. This removal is filed within 30 days of service upon Defendant Reynaldo and is therefore timely filed under 28 U.S.C. § 1446(b). *See Murphy Bros. v. Michetti Pipe Stringing Inc.*, 526 U.S. 344, 347-48 (1999) (notice of removal is timely under 28 U.S.C § 1446(b) if filed within 30 days after service of the complaint).

5. This United States District Court for the Western District of Texas, San Antonio Division, is the district and division embracing the place where such action is pending. *See* 28 U.S.C. § 103(4). Defendant Reynaldo consents to this removal to the United States District Court for the Western District of Texas, San Antonio Division.

6. Defendant Reynaldo, concurrently with the filing of this petition, has given written notice of the filing of this Notice of Removal to all parties of record and to the Clerk of the District Court in Travis County, Texas. (Exhibit A)

7. Pursuant to 28 U.S.C. § 1446, documents filed in the state court action are attached to this Notice of Removal and are incorporated herein by reference.

8. Defendant expressly reserves the right to raise all defenses and objections to Plaintiffs' claims or to otherwise plead after the action is removed to this Honorable Court.

REMOVAL BASED ON DIVERSITY JURISDICTION

9. This Court has jurisdiction based on 28 U.S.C. §1332(a)(1) in that "the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is

between citizens of different States." Defendant Reynaldo is a citizen of the State of Florida and resides there.

AMOUNT IN CONTROVERSY IS MET

10. Plaintiffs seek recovery of damages in the form of monetary relief "over \$1,000,000.00." As such, the amount in controversy is greater than \$75,000.00. *See* 28 U.S.C. § 1446(c)(2)

JURY DEMAND

Defendant Ogayar Reynaldo respectfully demands a jury on all triable issues pursuant to Federal Rules of Civil Procedure 38 and 81(c).

WHEREFORE, PREMISES CONSIDERED, Defendant Ogayar Reynaldo, prays that this Court accept his Notice of Removal for filing in accordance with the provisions of 28 U.S.C. § 1441, *et. seq.*, remove the action to this Federal Court and place this case on the docket of the United States District Court for the Western District of Texas, San Antonio Division, and for such further relief, legal or equitable, general or special, to which Defendant may be justly entitled.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I do hereby certify that on the 12th day of August, 2020 I electronically filed ***Defendant Ogayar Reynaldo's Notice of Removal*** with the Clerk of Court using the CM/ECF system, as well as, sent notification of such filing by certified mail to the following:

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/s/ Joseph G. Peña

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